

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA**

ALFREDO CARDENAS,) Case No.: 2023-012179-CA-01
Plaintiff) Section No. CA30
vs.)
7-ELEVEN INC et al,)
Defendants)

)

DEFENDANT RDY STORE INC'S ANSWER

Defendant, RDY STORE INC, hereby files this answer to Plaintiff's complaint. Each answer corresponds to the paragraph number in the complaint.

1. Denied.
2. Admitted
3. Denied
4. Without knowledge.
5. Without knowledge
6. Admitted
7. Denied
8. Admitted
9. Admitted as to RDY, otherwise Denied.
10. Denied
11. Denied
28. Admitted that RDY has a duty, but Denied as to Plaintiff's description thereof.
29. Denied
30. Denied

31. Denied

32. No response required

33. Admitted

34. Denied

35. Denied

36. Denied

37. Denied

38. Denied

39. Denied

40. Denied

41. Denied

Jury Trial Demanded on all issues so triable

Affirmative Defenses

1. Plaintiff's actions are barred by § 776.085, Fla. Stat. as Plaintiff was injured during the commission or attempted commission of a forcible felony, as evidenced by the police report attached hereby as Exhibit A. In particular, Plaintiff was shoplifting alcohol, burglary as defined in § 810.02, Flat. Stat. , threat of physical force, and other forcible felonies, as defined in §776.08, Flat. Stat.

2. Plaintiff's injury was not proximately caused by any of RDY's actions.
3. Plaintiff's injury was caused by his own intentional and negligent actions.
4. Plaintiff's injury was caused by an intervening force.
5. Plaintiff's injury was not reasonably foreseeable by any of RDY's conducts.

6. Mr. White was not acting within the scope of his employment.

7. Mr. White's actions were in part to prevent the commission of shoplifting by Plaintiff, and as such, is immune from civil liability under § 812.015, Fla. Stat. and the common law shopkeeper's privilege.

8. Mr. White's actions against Plaintiff reasonable under the circumstances, especially given that Plaintiff is a registered sex offender, and "touched" Mr. White on "his cheek without his permission" prior to his injury. A public record copy that Plaintiff is a registered sex offender is hereby attached as Exhibit B.

9. Defendant failed to mitigate its damages.

10. Defendant's injuries were sustained outside the Store, and not on property that is owned or controlled by RDY.

11. Defendant assumed the risk of injury when he decided to shoplift, and touch Mr. White.

12. Defendant's actions are barred by the doctrine of unclean hands, as Plaintiff committed multiple crimes, nuisances, and was otherwise involved in unruly conduct before getting injured.

13. Defendant's had pre-existing conditions that caused his injury and damages.

CERTIFICATE OF SERVICE

I certify that this notice was served via the Florida Court E-Filing Portal on April 11, 2024 upon all counsels of record.

Respectfully submitted,

Shlomo Y. Hecht, P.A.
3076 N Commerce Pkwy
Miramar, FL 33025
Phone: 954-861-0025

By: /s/ Shlomo Y Hecht
Florida State Bar No.: 127144
Email: sam@hechtlawpa.com
Attorney for Defendant RDY Store Inc

Exhibit (A)

INCIDENT REPORT

PAGE 1 of 2

PRINTED BY: Dorneval, Jr., Thomas
 PRINTED DATE/TIME: 7/10/2023 1:52 PM

CITY OF MIAMI POLICE DEPARTMENT
 400 NW 2ND AVE
 MIAMI, FL 33128
 305-579-6111
 REPORT NUMBER: 2203120017695

REPORT NUMBER: 2203120017695-001	INCIDENT LOCATION: 1099 SW 1ST AV	INCIDENT TYPE: 32F - AGGRAVATED ASSAULT/BATTERY (FELONY)	DISPO: Cleared by Arrest	STATUS: 2 - Closed
OCCURRED ON: 3/12/2022 2:14:00 AM-	REPORTED ON: 3/12/2022 2:16:20 AM	ENTERED ON: 3/12/2022 5:12:34 AM	ENTERED BY: Talania, Adrian G	
REPORT TYPE: Arrest Report	SUPPLEMENTAL:	CLEARANCE BASIS:	CLEARANCE DATE:	
CIT RELATED: No	BODY CAM FOOTAGE: Yes			
INVESTIGATOR CONTACTED: 28547 - Figueroa, Julie	INVESTIGATIONS NOTIFIED: Yes			
24HR DESK NOTIFIED: No	CIS CONTACTED:			
WAS A GUN DISCHARGED: No	WAS SOMEONE HIT:			

OFFENSES

OFFENSE: AGGRAVATED BATTERY

STATUTE: 784.045

LOCATION TYPE: Convenience COMPLETED: Completed
Store

HATE/BIAS: None (No Bias)

ARRESTEES

NAME: WHITE, DARRYL LEONARD Jr.

DOB: 6/11/2000

AGE: 21

SEX: Male

RACE: Black

ETHNICITY: Not Hispanic or Latino

ADDRESS: Home - 1181 Nw 57th St MIAMI, FL 33127

EYE COLOR: Brown
HAIR LENGTH: ShortHAIR COLOR: Black
FACIAL HAIR: Clean Shaven
BUILD: LargeHAIR STYLE: Natural
COMPLEXION: Dark
CLOTHING: BLCK

TEETH: Normal

HEIGHT: 5' 9"
SMT:
PLACE OF BIRTH: MIAMI FLORIDAWEIGHT: 255
SMT LOCATION:
COUNTRY OF ORIGIN:SHIRT/BLCK PANT
RESIDENT OF: City
SMT DESCRIPTION:**ARREST INFORMATION:**

ARRESTED FOR: 784.045 - AGGRAVATED BATTERY

ARREST DATE: 3/12/2002

ARREST TYPE: Arrested on Scene

ARREST LOCATION: 1099 SW 1 AVE

ARMED WITH: Hands / Fists / Feet

Other

THIS CERTIFIES THAT
 THIS REPORT IS A TRUE COPY
 OF THE ORIGINAL FILED WITH
 THE CITY OF MIAMI POLICE DEPARTMENT

NAME & IBM:

43175

DATE & TIME:

7/10/23

INCIDENT REPORT

PAGE 2 of 2

PRINTED BY: Dorneval, Jr., Thomas
PRINTED DATE/TIME: 7/10/2023 1:52 PM

CITY OF MIAMI POLICE DEPARTMENT
400 NW 2ND AVE
MIAMI, FL 33128
305-579-6111
REPORT NUMBER: 2203120017695

VICTIMS

NAME: CARDENAS, ALFREDO
AGE: 77
SEX: Male
RACE: White

NARRATIVE

SEE A-FORM



1100592092

COMPLAINT/ARREST AFFIDAVIT - COURT COPY

OBTS NUMBER 1307388164	ARMED FORCES NO	BWC YES	COMPLAINT/ARREST AFFIDAVIT												POLICE CASE NO. 2203120017695					
SPECIAL OPERATION <input checked="" type="checkbox"/> FELONY <input type="checkbox"/> MISD <input type="checkbox"/> TRAFFIC <input type="checkbox"/> JUV <input type="checkbox"/> DV <input type="checkbox"/> MOVES <input type="checkbox"/> CIV INF <input type="checkbox"/> WARRANT	FUGITIVE WARRANT: <input type="checkbox"/> In State <input type="checkbox"/> Out State												JAIL NO. 220128616	PMHD NO	COURT CASE NO. F22004599					
IDS NO. 3433890	AGENCY CODE 001	MUNICIPAL P.D. DEF. ID NO.	MPD RECORDS AND ID NO. 1250842				STUDENT ID NO.				GANG RELATED NO		FRAUD RELATED NO							
DEFENDANT'S NAME (LAST, FIRST, MIDDLE) WHITE, DARRYL LEONARD JR										ALIAS and/or STREET NAME				SIGNAL						
DOB (MM/DD/YYYY) 06/11/2000	AGE 21	RACE B	SEX M	HISPANIC NO	ETHNICITY AFR	HEIGHT 5'09	WEIGHT 255	HAIR COLOR BLK	HAIR LENGTH SHT	HAIR STYLE AFR	EYES BRO	Glasses NO	FACIAL HAIR CLN	TEETH NOR						
SCARS, TATTOOS, UNIQUE PHYSICAL FEATURES (Location, Type, Description)														PLACE OF BIRTH (City, State/County) MIAMI FL US						
LOCAL ADDRESS														PHONE	CITIZENSHIP US					
PERMANENT ADDRESS (Street, Apt. Number) 1181 NW 57TH ST														(City) MIAMI	(State) FL	(Country) US	(Zip) 33127	PHONE (786) 462-8531	OCCUPATION STORE CLERK	
SCHOOL OR BUSINESS ADDRESS (Street, Apt. Number)														(City)	(State)	(Country)	(Zip)	PHONE	ADDRESS SOURCE DL	
DRIVER'S LICENSE NUMBER/STATE [REDACTED]			SOCIAL SECURITY NO. [REDACTED]			WEAPON SEIZED NO			Defendant/CONCEALED WEAPON PERMIT NONE			INDICATION OF: Alcohol Influence N Drug Influence N								
ARREST DATE 03/12/2022	ARREST TIME 02:56	ARREST LOCATION 1099 SW 1ST AVE MIAMI, FL 33130												GRID 1414						
CO-DEFENDANT NAME														DOB	<input type="checkbox"/> IN CUSTODY AT LARGE	<input type="checkbox"/> FELONY DV	<input type="checkbox"/> JUVENILE MISDEMEANOR			
CO-DEFENDANT NAME														DOB	<input type="checkbox"/> IN CUSTODY AT LARGE	<input type="checkbox"/> FELONY DV	<input type="checkbox"/> JUVENILE MISDEMEANOR			
CO-DEFENDANT NAME														DOB	<input type="checkbox"/> IN CUSTODY AT LARGE	<input type="checkbox"/> FELONY DV	<input type="checkbox"/> JUVENILE MISDEMEANOR			
JUV only	Relation	Name	Street						Zip	Phone	Contacted?									
CHARGES					CHARGE AS	QNTS	FL STATUTE NUMBER	VIOL OF SECT.	CODE OF	UCR	DV	WARRANT TYPE OR TRAFFIC CITATION								
1. F/2-BATTERY/AGGRAVATED					F.S.	1	784.045			0004130A	N									
2.																				
3.																				
4.																				
The undersigned certifies and swears that he/she has just and reasonable grounds to believe, and does believe that the above named Defendant committed the following violation of law: On the 12 day of MARCH, 2022, at 02:14 at 1099 SW 1ST AVE, MIAMI, FL, 33130																				
I WAS DISPATCHED TO 1099 SW 1 AVE (7/11 STORE) IN REFERENCE TO AGGRAVATED BATTERY. UPON ARRIVAL, I MADE CONTACT WITH THE VICTIM WHO SEEM DISORIENTED. SUSPECT (STORE CLERK) WAS INSIDE THE STORE CONDUCTING BUSINESS. WITNESSES WERE OUTSIDE WITH THE VICTIM. DUE TO CONDITION OF THE VICTIM, HE WAS UNABLE TO PROVIDE A STATEMENT FROM INCIDENT SCENE NOR AT THE HOSPITAL HE WAS TRANSPORTED. ACCORDING TO THE SUSPECT, VICTIM CAME IN THE STORE PLAYING LOUD MUSIC AND WAS TOLD MULTIPLE TIMES TO TURN OFF HIS MUSIC. VICTIM RESPONDED INAPPROPRIATELY IN SPANISH. VICTIM PROCEEDED TO THE BACK OF THE STORE WHERE HE WAS SEEN IN A STORE SURVEILLANCE MONITOR PLACING A BOTTLE OF MODELO BEER IN HIS POCKET. SUSPECT APPROACHED THE VICTIM AND ASK HIM TO RETURN THE ITEM BACK IN THE REFRIGERATOR.... [Continued on Next Page]																				
HOLD FOR OTHER AGENCY VERIFIED BY I SWEAR THAT THE ABOVE STATEMENT IS TRUE AND CORRECT. <i>A. Avila</i>					<input type="checkbox"/> HOLD FOR BOND HEARING, DO NOT BOND OUT (Officer Must Appear At Bond Hearing).			<input type="checkbox"/> I understand that I will fail to appear before the court as required by this notice if I do not hold in confinement or out and a warrant for my arrest is all issued. Furthermore, I agree that notice concerning the time, date and place of all court hearings should be sent to the above address. I agree that it is my responsibility to notify Clerk of Court/Judge/Attala County Sheriff's Office of my new address changes.			<input type="checkbox"/> You need no longer be in court, but must comply with the instructions on the reverse side hereof.									
TALANIA, A: Court ID: 001-41952 MPD 20222219637					SWORN TO AND SUBSCRIBED BEFORE ME, THE UNDERSIGNED AUTHORITY THIS 12 DAY OF MARCH 2022 <i>A. Avila</i>															
AVILA, A: Court ID: 001-40734 MPD					Report Generated at 03/12/2022 16:09:52															



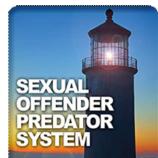
1100592092

CBTS NUMBER 1307388164	COMPLAINT/ARREST AFFIDAVIT CONTINUATION						POLICE CASE NO. 2203120017695	
JAIL NO. 220128616	COURT CASE NO. F22004599							
SPECIAL OPERATION: <input checked="" type="checkbox"/> FELONY <input type="checkbox"/> MISD <input type="checkbox"/> TRAFFIC <input type="checkbox"/> JOV <input type="checkbox"/> DV <input type="checkbox"/> WARRANT	FUGITIVE WARRANT: <input type="checkbox"/> MOVES <input type="checkbox"/> In State <input type="checkbox"/> Out State		CIV INF	JAIL NO. 220128616	PMHD NO	COURT CASE NO. F22004599		
DEFENDANT'S NAME (LAST, FIRST, MIDDLE) WHITE, DARRYL LEONARD JR							DOB (MM/DD/YYYY) 06/11/2000	
CO-DEFENDANT NAME	DOB		<input type="checkbox"/> IN CUSTODY AT LARGE	<input type="checkbox"/> FELONY DV	<input type="checkbox"/> JUVENILE MISDEMEANOR			
CO-DEFENDANT NAME	DOB		<input type="checkbox"/> IN CUSTODY AT LARGE	<input type="checkbox"/> FELONY DV	<input type="checkbox"/> JUVENILE MISDEMEANOR			
CHARGES	CHARGE AS:	CNTS	FL STATUTE NUMBER	MOL OF SECT.	CODE OF	UCR	DV	WARRANT TYPE OR TRAFFIC CITATION
5.								
6.								
7.								
8.								
IN WHICH THE VICTIM COMPLAINED. VERBAL DISPUTE BETWEEN PARTIES TRANSPRIRED TO A PHYSICAL TOUCH. SUSPECT CLAIM HE WAS TOUCH BY THE VICTIM ON HIS CHEEK WITHOUT HIS PERMISSION. FEELING TREATHEMED, SUSPECT RESPONDED BY PUNCHING THE VICTIM ON THE BACK OF HIS HEAD AS HE WAS LEAVING THE STORE. THE VICTIM IMMEDIATELY FELL ON THE GROUND. SUSPECT CONTINUED STRIKING MULTIPLE TIMES THEN PROCEEDED INSIDE THE STORE TO CONDUCT BUSINESS. WITNESSES STATEMENT WERE CONTRARY TO THE SUSPECTS STATEMENT. THE WITNESSES OBSERVED THE SUSPECT SUCKER PUNCHING THE VICTIM APPROXIMATELY THREE TIMES ON THE BACK OF HIS HEAD AS HE WAS WALKING OUT OF THE STORE. VICTIM WAS KNOCKED OUT IN FRONT OF THE STORE AND WAS DRAGGED OUTSIDE THE STORE WHERE HE BEGUN TO PUNCH AND KICK THE VICTIM AGAIN. ONE OF THE WITNESSES SHOWED A VIDEO ON THE PHONE WHERE THE VICTIM WAS UNCONSCIOUS ON THE FLOOR AND THE SUSPECT WAS STANDING OVER HIM, PUNCHING AND KICKING HIM MULTIPLE TIMES CONSISTED WITH THEIR STATEMENT. VICTIM SUSTAINED A LACERATION ON HIS RIGHT HAND AND WAS TRANSPORTED TO MERCY HOSPITAL. HOMICIDE UNIT #26547 AND ID WERE NOTIFIED #43297. A CASE CARD WAS GIVEN TO THE VICTIM. DEFENDANT WAS ARRESTED AND TRANSPORTED TO TGK.								
OFFICERS USING BODY-WORN CAMERA: TALANIA, A: Court ID: 001-41952								

HOLD FOR OTHER AGENCY VERIFIED BY	<input type="checkbox"/> HOLD FOR BOND HEARING, DO NOT BOND OUT (Officer Must Appear at Bond Hearing.)	<input type="checkbox"/> I understand that should I willfully fail to appear before the police officer required by this notice to appear, that I may be held in contempt of court and a warrant for my arrest shall be issued. Furthermore, I agree that notice concerning the trial, held after notice of all court hearings, shall be sent to the above address. I agree that it is my responsibility to notify Clerk of the Court (Juvenile or Juvenile Division) anytime that my address changes.
I SWEAR THAT THE ABOVE STATEMENT IS TRUE AND CORRECT.	SWORN TO AND SUBSCRIBED BEFORE ME, THE UNDERSIGNED AUTHORITY THIS 12 DAY OF MARCH 2022	<input type="checkbox"/> You need not appear in court, but must comply with the instructions on the verso side hereof.
<i>Si 41952</i> TALANIA, A: Court ID: 001-41952	<i>h h</i> AVILA, A: Court ID: 001-40734	

COMPLAINT/ARREST AFFIDAVIT CONT.

Exhibit (B)



Sexual Offenders and Predators Search



Charting a course for public safety

Select Language + ▾

Offender Search ?



Search



Reset

Offender Search Results

Return Selection as:

List



Select All Pages | Unselect All Pages

(Displaying 1 - 1 of 1, Page: 1/1)

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Select	Picture	Name	Status	Address	Address Source Information
<input type="checkbox"/>		CARDENAS-RODRIGUEZ, ALFREDO R. View Flyer Track Offender	Confinement	1545 NW 7th Ave Miami, FL 33136-1403 Show Map	Source: Registration Address Type: Permanent Received: 02/23/2023

(Displaying 1 - 1 of 1, Page: 1/1)

◀◀ ▶▶ 1 10 ⌂ ⓔ

2018 Florida Department of Law Enforcement, v.3.0

Enforcement and Investigative Support

Post Office Box 1489 Tallahassee, FL 32302-1489

Toll-free: 1-888-357-7332 (M-F 8:00am - 5:00pm, Eastern)

Local: 1-850-410-8572 (M-F 8:00am - 5:00pm, EST)

Email: sexpred@fdle.state.fl.us

Social Media:

FDLE Mobile App: